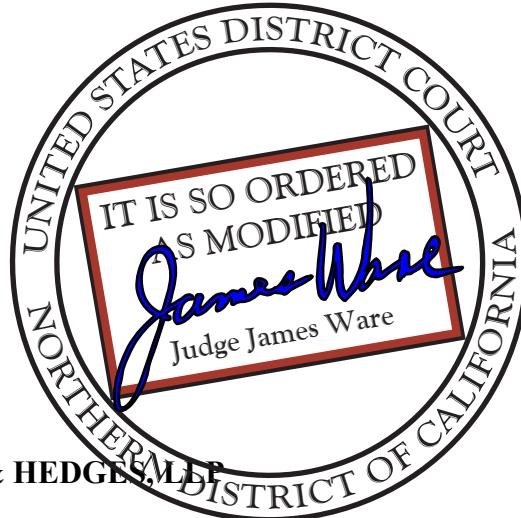


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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SAN JOSE DIVISION

KEVIN EMBRY, an individual, on behalf of himself, the general public and those similarly situated

CASE NO. CV-09-01808 (JW)

**STIPULATION TO CONTINUE THE
HEARING ON PLAINTIFF'S MOTION
TO STRIKE**

Plaintiff

V.

ACER AMERICA CORPORATION; AND
DOES 1 THROUGH 50

Defendants

27

1 TO THE COURT AND ALL PARTIES,

2 WHEREAS Plaintiff Kevin Embry has filed a motion to strike certain affirmative
3 defenses in Defendant Acer America Corporation's answer to Embry's complaint.

4 WHEREAS the parties have been meeting and conferring, and expect to resolve the
5 dispute by stipulating to the filing of an amended answer.

6 WHEREAS the hearing on the motion to strike is set for October 5, 2009.

7 WHEREAS the parties believe that a brief continuance of this hearing date would allow
8 them sufficient time to resolve their dispute, which may render most, if not all, of the motion
9 moot.

10 THE PARTIES HEREBY STIPULATE AND AGREE that the hearing on the motion to
11 strike should be continued to November 16, 2009, which is the next available date on the Court's
12 calendar.

13 DATED: September 28, 2009

GUTRIDE SAFIER LLP

16 By: /s/ _____

17 Seth A. Safier
Attorneys for Plaintiff
Kevin Embry

19 DATED: September 28, 2009

20 QUINN EMANUEL URQUHART OLIVER &
21 HEDGES, LLP

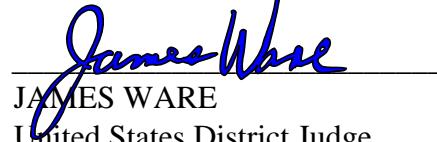
22 By: /s/ _____

23 Jeffery D. McFarland
Attorneys for Defendant ACER AMERICA
CORPORATION

24 *** ORDER ***

25 For good cause shown, the Court GRANTS the parties' Stipulation to continue the hearing
26 on Plaintiffs' Motion to Strike Defendant's Affirmative Defenses, modified as follows:
The hearing is continued from October 5, 2009 to **November 9, 2009 at 9 a.m.** On or before
27 **October 19, 2009**, Defendant shall file its Opposition. On or before **October 26, 2009**,
Plaintiffs shall file their Reply.

28 Dated: September 29, 2009


JAMES WARE
United States District Judge